Mr. President.—The question is that clause 1 stand part of the Bill.

1. (1) This Regulation may be called the Cochin Income-tax (Amendment) Regulation, of 111 .

Short title, commencement and extent.

(2) It shall come into force on the first day of Chingam 1112 and shall extend to the whole of Cochin.

Clause put and carried.

Mr. President—The question is that the title and preamble stand part of the Bill.

The Cochin Income-tax Regulation Amendment Bill.

Whereas it is expedient further to amend the Cochin Income-tax Regulation, VIII of 1108, hereinafter referred to as the said Regulation: It is hereby enacted as follows.—

Preamble.

Title and preamble put and carried.

Mr. Thomas Manjuran.—I rise to move that Bill may be taken up and finally passed day after tomorrow.

Motion put and carried.

The Cochin Patents and Designs Bill.

Mr. Thomas Manjuran.—Sir, I rise to present the Select Committee Report on the Cochin Patents and Designs Bill. This Bill has not undergone any modification from the original Bill. I move that the Bill be taken into consideration.

Motion put and carried.

Mr. President.—The question is that Clauses 2 to 23st and part of the Bill.

2. In this Regulation, unless there is anything repugnant in the subject or context,

Definitions.

(1) "article" means (as respects designs) any article of manufacture and any substance, artificial or natural, or partly artificial and partly natural;

(2) "Controller" means the Controller of Patents and Designs appointed under this Regulation;

(3) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered;

(4) "design" means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means,

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whether manual, mechanical or chemical, separate or combined, which in the finished articles appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in section 458, or property mark as defined in section 459, of the Cochin Penal Code, Regulation I of 1059;

(5) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure, Regulation I of 1079;

(6) "Chief Court" has the meaning assigned to that expression by the Code of Criminal Procedure, Regulation II of 1086, in reference to proceedings against European British subjects;

(7) "invention" means any manner of new manufacture, and includes an improvement and an alleged invention;

(8) "legal representative" means a person who in law represents the estate of a deceased person;

(9) "manufacture" includes any art, process or manner of producing, preparing or making an article. and also any article prepared or produced by manufacture;

(10) "patent" means a patent granted under the provisions of this Regulation;

(11) "patentee" means the person for the time being entered on the register of patents, kept under this Regulation as the grantee or proprietor of the patent;

(12) "prescribed' includes prescribed by rules under this Regulation; and

(13) "proprietor of a new or original design,"—

(a) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed; and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired; and

(c) in any other case, means the author of the design; and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

PART I.

PATENTS.

Application for and Grant of Patent.

Application.

3. (1) An application for a patent may be made by any person whether he is a Cochin subject or not, and whether alone or jointly with any other person.

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(2) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by a specification and by the prescribed fee.

(4) Where the true and first inventor is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

Specification.

4. (1) The specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(2) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the application, and such drawings shall be deemed to form part of the specification.

(3) The specification must commence with the title, and must end with a distinct statement of the invention claimed.

(4) If in any particular case the controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

Proceedings upon application.

5. (1) The Controller shall examine every application, and if he considers that—

(a) the nature of the invention is not fairly described, or

(b) the application, specification and drawings have not been prepared in the prescribed manner, or

(c) the title does not sufficiently indicate the subject-matter of the invention, or

(d) the statement of claim does not sufficiently define the invention, or

(e) the invention as described and claimed is *prima facie* not a new manufacture or improvement, or

(f) the specification relates to more than one invention he may refuse to accept the application or require that the application, specification or drawings be amended before he proceeds with the application, and in the latter case the application shall, if the Controller so directs, bear date as from the time when the requirement is complied with:

Provided that, when a specification comprises more than one invention, the application shall, if the Controller or the applicant so requires, be

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restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Regulation to have been made on the date which it bears in accordance with such direction.

(2) Where the Controller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the Government.

(3) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Government or any officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(4) Unless an application is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void:

Provided that where, before, or within three months after, the expiration of the said period of twelve months a request is made to the Controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, during, but not beyond, the period of extension so requested.

Advertisement on acceptance of application.

6. On the acceptance of an application the Controller shall give notice thereof to the applicant and shall advertise the acceptance; and the application and specification with the drawings (if any), shall be open to public inspection.

Use of invention on acceptance of application.

7. Where an application for a patent in respect of an invention has been accepted, any use or publication of the invention during the period between the date of application and the date of sealing such patent shall not prejudice the patent to be granted for the invention:

Provided that an applicant shall not be entitled to institute any proceedings for infringement unless and until a patent for the invention has been granted to him.

Opposition to grant of patent.

8, (1) Any person may, on payment of the prescribed fee, at any time within four months from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds, namely:—

(a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative or assign; or

(b) that the invention has been claimed in any specification filed in Cochin which is or will be of prior date to the patent, the grant of which is opposed; or

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(c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the specification; or

(d) that the invention has been publicly used in any part of Cochin; or has been made publicly known in any part of Cochin;

but on no other ground.

(2) Where such notice is given, the Controller shall give notice of the opposition to the applicant, and shall, on the expiration of those four months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case.

(3) The decision of the Controller shall be subject to appeal to the Government.

Grant and sealing of patent.

9. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted subject to such conditions (if any) as the Government think expedient, to the applicant, or in the case of a joint application to the applicants jointly and the Controller shall cause the patent to be sealed with the seal of the Patent Office.

(2) Notwithstanding anything contained in sub-section (1), where—

(a) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(b) disputes arise between joint applicants as to proceeding with an application, the Controller, if he is satisfied of the existence of such agreement or, in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them, as the case may be:

Provided that—

(1) the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and

(2) an appeal from any such direction shall lie to the Government.

(3) A patent shall be sealed as soon as may be, and not after the expiration of eighteen months from the date of application:

Provided that—

(a) where the Controller has allowed an extension of the time within which an application may be accepted, a further extension of four months after the said eighteen months shall be allowed for the sealing of the patent;

(b) where the sealing is delayed by an appeal to the Government, or by opposition to the grant of the patent, the patent may be sealed at such time as the Controller may direct;

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(c) where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death;

(d) where for any reason a patent cannot be sealed within the period allowed by any of the foregoing provisions of this section, that period may, on payment of the prescribed fee and ôn compliance with the prescribed conditions, be extended to the extent applied for but not exceeding three months.

Date of patent.

10. Except as otherwise expressly provided by this Regulation, a patent shall be dated and sealed as of the date of the application:

Provided that no proceedings shall be taken in respect of an infringement committed before the advertisement of the acceptance of the application.

Effect, extent and form of patent.

11. (1) A patent sealed with the seal of the Patent Office shall subject to the other provisions of this Regulation, confer on the patentee the exclusive privilege of making, selling and using the invention throughout Cochin and of authorizing others so to do.

(2) Every patent may be in the prescribed form and shall be granted for one invention only, but the specification may contain more than one claim; and it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

Fraudulent applications for patents.

12. (1) A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him, or by protection obtained thereon or by any use or publication of the invention subsequent to that fradulent application during the period of protection.

(2) Where a patent has been revoked by the Chief Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under section 8 on the ground stated in clause (a) of sub-section (1) of that section, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Regulation, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

TERM OF PATENT.

Term of patent.

13. (1) The term limited in every patent for the duration thereof, shall, save as otherwise expressly provided by this Regulation, be sixteen years from its date.

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(2) Any patent the original term of which had not expired on or before the....., shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any license existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(3) Where any party to a contract with the patentee or any other person entered into before the..... , is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liability shall be borne.

(4) A patent shall, notwithstanding anything therein or in this Regulation, cease if the patentee fails to pay the prescribed fees within the prescribed times:

Provided that where the patentee, before, or within three months after, the expiration of the time for payment, applies to the Controller for an extension of time by any period not exceeding three months, the patent shall on payment of such additional fee as may be prescribed be continued or revived, as the case may be, during, but not, beyond, the period of extension applied for.

(5) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

Extension of term of patent.

14. (1) A patentee may present a petition to the Government praying that his patent may be extended for a further term; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee, and must be advertised by the patentee within the prescribed time and in the prescribed manner.

(2) Any person may, within such time as may be prescribed and on payment of the prescribed fee, give notice to the Controller of objection to the extension.

(3) Where a petition is presented under sub-section (1), the Government may, as they think fit, dispose of the petition themselves or refer it to the Chief Court for decision.

(4) If the petition be referred to the Chief Court, then on the hearing of such petition under this section, the patentee, and any person who has given notice under sub-section (2) of objection, shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The Chief Court shall, in considering its decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

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(6) If it appears to the Government, or to the Chief Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Government or the Chief Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or, in exceptional cases, ten years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction conditions and provisions which the Government or the Chief Court, as the case may be, may think fit.

Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Regulation, cease if the inventor fails to pay before the expiration of each year the prescribed fee.

Patents of addition.

15. (1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and, if he does so, a patent, (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Regulation, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal.

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.

Restoration of lapsed patent.

16. (1) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Controller in the prescribed manner for an order for the restoration of the patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional or unavoidable and that no undue delay has occurred in the making of the application, the Controller shall advertise the application in the prescribed manner; and within such time as may be prescribed any person may give notice of opposition at the Patent Office.

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(4) Where such notice is given the Controller shall notify the applicant thereof.

(5) After the expiration of the prescribed period, the Controller shall hear the case and, subject to an appeal to the Government, issue an order either restoring the patent subject to any conditions and restrictions deemed to be advisable or dismissing the application:

Provided that in every order under this section, restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject matter of the patent after the patent had ceased.

AMENDMENT OF APPLICATION OR SPECIFICATION.

Amendment of application or specification by Controller.

17. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office and accompanied by the prescribed fee, seek leave to amend his application or specification, including drawings forming part thereof by way of disclaimer, correction or explanation, stating the nature of and the reasons for, the proposed amendment.

(2) If the application for a patent has not been accepted, the Controller shall determine whether and subject to what conditions (if any) the amendment shall be allowed.

(3) In any other case the request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within three months from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(4) Where such a notice is given, the Controller shall give notice of the opposition to the person making the request and shall hear and decide the case.

(5) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) The decision of the Controller in either case shall be subject to an appeal to the Government.

(7) No amendment shall be allowed that would make the application or specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the application or specification as it stood before amendment.

(8) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all Courts and for all purposes be deemed to form part of the application or specification.

(9) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

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18. In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent, the Court may by order allow the patentee to amend his specification by way of disclaimer, correction or explanation in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit.

Amendment of specification by the Court.

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the Court, notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

19. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Regulation, no damages shall be given in any suit in respect of the use of the invention before the date of the decision allowing the amendment unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Restriction on recovery of damages.

REGISTER OF PATENTS.

20. (1) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

Register of Patents.

(2) The Register of inventions and address-book existing at the commencement of this Regulation shall be incorporated with, and form part of, the register of patents under this Regulation.

(3) The register of patents shall be prima facie evidence of any matters by this Regulation directed or authorised to be inserted therein.

(4) Copies of deeds, licenses and any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office.

21. (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against His Highness the Maharaja as it has against a subject.

Patent to bind His Highness the Maharaja.

(2) The officers or authorities administering any department of the service of His Highness the Maharaja may, by themselves or by such of their agents, contractors or others as may be authorized in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of His Highness the Maharaja on such terms as may, either before or after the use thereof,

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be agreed on with the approval of the Government, between such officers or authorities and the applicant or patentee, or, in default of agreement, as may be settled in the manner hereinafter provided. And the terms of any agreement or license concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative so far as concerns the making, use or exercise of the invention for the service of His Highness the Maharaja.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of His Highness the Maharaja (such invention not having been communicated directly or indirectly by the applicant or patentee) such officers or authorities, or such of their agents, contractors or others, as may be authorised in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of His Highness the Maharaja, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee, as the case may be, of the document recording the invention, or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the Chief Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee, or arbitrator, as the case may be may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from His Highness the Maharaja or from such officers or authorities in respect of such patent.

Provided that, if the inventor or patentee is a Government servant and the subject matter of the invention is certified by the Government to be connected with work done in the course of such service, any such dispute shall be settled by the Government after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of His Highness the Maharaja under the provisions of this section, or any provisions for which this section is substituted, shall include and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of His Highness the Maharaja.

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(6) Nothing in this section shall affect the right of His Highness the Maharaja or of any person deriving title directly or indirectly from His Highness the Maharaja to sell or use any articles forfeited under any law for the time being in force relating to customs or excise.

Assignment of patent to the Diwan.

22. (1) The inventor of any improvement in instruments or munitions of war may (either for without valuable consideration) assign to the Diwan on behalf of His Highness the Maharaja all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the Diwan may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Diwan on behalf of His Highness the Maharaja, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by or on behalf of the Diwan,

(3) Where any such assignment has been made, the Government may, at any time before the publication of the specification, certify to the Controller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Government so certify, the application and specifications, with the drawings (if any) and any amendment of the specification and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Controller in a packet sealed by authority of the Government.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Controller and shall not be opened save under the authority of an order of the Government.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the Government to receive it, and shall, if returned to the Controller, be again kept sealed by him.

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the Government.

(8) Where the Government certify as aforesaid after an application for the patent has been left at the Patent Office but before the publication of the specification, the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Controller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Government.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Government as aforesaid.

(10) No copy of any specification or other document or drawing by this section required to be placed in a sealed packet, shall in any manner

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whatever be published or open to the inspection of the public but, save as otherwise provided in this section, the provisions of this Regulation shall apply in respect of any such invention and patent as aforesaid.

(11) The Government may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Diwan or the Government or to any person or persons authorised by the Diwan or the Government to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed to use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

COMPULSORY LICENSES AND REVOCATION.

Compulsory licenses and revocation.

23. (1) Any person interested may present a petition to the Government, which shall be left at the Patent Office, together with the prescribed fee, alleging that the demand for a patented article in Cochin is not being met to an adequate extent and on reasonable terms, and praying for the grant of a compulsory license, or, in the alternative, for the revocation of the patent.

(2) The Government shall consider the petition, and if the parties do not come to an arrangement between themselves, the Government may, as they think fit, either dispose of the petition themselves or refer it to the Chief Court for decision.

(3) The provisions of sub-section (4) of section 14, prescribing the procedure to be followed in the case of references to the Court under that section, shall apply in the case of references made to the Court under this section.

(4) If the Government are of opinion or where a reference has been made under sub-section (2) to the Chief Court, that Court finds that the demand for the patented article in Cochin is not being met to an adequate extent and on reasonable terms, the patentee may be ordered to grant licenses on such terms as the Government or the Chief Court, as the case may be, may think just, or, if the Government are or the Chief Court is of opinion that the demand will not be adequately met by the grant of licenses, the patent may be revoked by order of the Government or the Chief Court:

Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(5) For the purposes of this section the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms—

(a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or

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any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in Cochin is unfairly prejudiced, or

(b) if any trade or industry in Cochin is unfairly prejudiced by the conditions attached by the patentee to the purchase, hire or use of the patented article or to the using or working of the patented process.

Clauses put and carried.

Mr. Thomas Manjuran.—I propose the following amendment to clause 24: In clause 24 (2) (c), sub-clause (a) (ii), delete the word 'His' and substitute for it the word 'their'.

Amendment put and carried.

Mr. President.—The question is that clause 24 as amended stand part of the Bill.

Revocation of patents worked outside Cochin.

24. (1) At any time not less than four years after the date of a patent granted under this Regulation, any person may apply to the Government for relief under this section on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside Cochin.

(2) The Government shall consider the application, and, if after inquiry, they are satisfied—

(a) that the allegations contained therein are correct; and

(b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in Cochin; and

(c) that the patentee refuses to grant a license on reasonable terms, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in Cochin, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the Government may make an order—

(a) revoking the patent either—

(i) forthwith; or

(ii) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to their satisfaction that the patented article or process is manufactured or carried on within Cochin to an adequate extent;

or

(b) ordering the patentee to grant a license to the applicant which may be a license exclusive to him or otherwise as the Government may direct.

(3) No order revoking a patent shall be made under the last subsection which is at variance with any treaty, convention, arrangement or engagement with the Paramount Power.

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(4) The Government may, on the application of the patentee, extend the time limited in any order made under sub-section (2), clause (ii), for such period not exceeding two years as they may specify in a subsequent order, or revoke any order made under sub-section (2), clause (ii), or any subsequent order if sufficient cause is in their opinion shown by the patentee.

Clause put and carried.

Mr. President.—The question is that Clause 25 to 30 stand part of the Bill.

Operation of order under section 23 or section 24.

25. An order of the Chief Court under section 23 or of the Government under section 23 or section 24, directing the grant of any license shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and executed by the patentee and all other necessary parties.

Power of Controller to revoke surrendered patent.

26. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

Revocation of patent on public grounds.

27. A patent shall be deemed to be revoked if the Government declare, by notification in the Cochin Government Gazette, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.

LEGAL PROCEEDINGS.

Petition for revocation of patent.

28. (1) Revocation of a patent in whole or in part may be obtained on petition to the Chief Court on all or any of the following grounds, namely—

(a) that any invention included in the Statement of claim is of no utility;

(b) that any invention included in the statement of claim was not, at the date of the application for a patent, a new invention within the meaning of this Regulation;

(c) that the applicant was not the true and first inventor thereof or the assign or legal representative of such inventor thereof;

(d) that the original or any amended application or specification does not fulfil the requirements of this Regulation;

(e) that the applicant has knowingly or fraudulently included in the application for a patent or in the original or any amended specification, as his invention, something which was not new or whereof he was neither the inventor nor the assign nor the legal representative of such inventor;

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(f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement;

(g) that the whole or a part of the invention or the manner in which the whole or a part is to be made and used as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent or is injurious to the public.

(2) A petition for revocation of a patent may be presented—

(a) by the Government Advocate or any person authorised by him; or

(b) by any person alleging—

(i) that the patent was obtained in fraud of his rights or of the rights of any person under or through whom he claims; or

(ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee; or

(iii) that he, or any person under or through whom he claims an interest in any trade, business or manufacture, had publicly manufactured, used or sold, within Cochin before the date of the patent, anything claimed by the patentee as his invention.

(3) The Chief Court may, irrespective of any provisions of the Code of Civil Procedure, Regulation I of 1079, in this behalf, require any person, other than the Government Advocate or any person authorised by him, applying for the revocation of a patent to give security for the payment of all costs incurred or likely to be incurred by any person appearing to oppose the petition.

Notice of proceedings to persons interested,

29. (1) Notice of any petition for revocation of a patent under section 28 shall be served on all persons appearing from the register to be proprietors of that patent or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post or anchal in a registered letter directed to the person and place for the time being stated in the register.

Framing issue for trial before other Courts.

30. (1) The Chief Court may, if it thinks fit, direct an issue for the trial before itself or any District Court, of any question arising upon a petition to itself under section 28, and the issue shall be tried accordingly.

(2) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded and a copy thereof, certified by the Judge of the Court, shall be transmitted together with any remarks which he may think fit to make thereon, to the Chief Court directing the issue, and the Chief Court may thereupon act upon the finding of the District Court, or dispose of the petition upon the evidence recorded, or direct a new trial, as the justice of the case may require.

Clauses put and carried.

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Mr. Thomas Manjuran.—I propose the following amendment: In clause 31 (1) delete the word "intimates" and substitute for it "imitates".

Amendment put and carried.

Mr. President.—The question is that Clause 31 as amended stand part of the Bill,

Suits for infringement of Patents.

31. (1) A patentee may institute a suit in a District Court having jurisdiction to try the suit against any person, who during the continuance of a patent acquired by him under this Regulation in respect of an invention, makes, sells or uses the invention without his license, or counterfeits it, or imitates it.

(2) Every ground on which a patent may be revoked under this Regulation shall be available by way of defence to a suit for infringement.

Clause put and carried.

Mr. President.—The question is that clauses 32 to 86 stand part of the Bill.

Exemption of innocent infringer from liability for damages.

32. A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Regulation from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "Patent", "patented", or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:

Provided that nothing in this section shall affect any proceedings for an injunction.

Order for inspection, etc., in suit.

33. In a suit for infringement of a patent, the Court may, on the application of either party, make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon, as the Court may see fit.

Certificate of validity questioned and costs thereon.

34. In a suit for infringement of a patent, the Court may, certify that the validity of the patent came in question, and if the Court so certifies, then in any subsequent suit in that Court for infringement of the same patent the plaintiff, on obtaining a final order or judgment in his favour, shall, unless the Court trying the suit otherwise directs, have his full costs, charges and expenses of and incidental to the said suit properly incurred.

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35. A Court making a decree in a suit under section 31 or an order on a petition under section 28 shall send a copy of the decree or order, as the case may be, to the Controller, who shall cause an entry thereof and reference thereto to be made in the register of patents.

Transmission of decrees and orders to the Controller.

36. (1) In a suit or proceeding for infringement or revocation of a patent, the Court, may, if it thinks fit, and shall on the request of all the parties to the proceedings, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance.

Hearing with assessor.

(2) A Court exercising appellate jurisdiction in respect of such suit or proceeding may, if it thinks fit, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall, in every case be determined by the Court and be paid by it as part of the expenses of the execution of this Regulation.

37. Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties inserting in such invalid claims in the specification or permitting them to remain there.

Grant of relief in respect of particular claims.

38. Where, any person claiming to have an interest in a patent by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of the patent:

Remedy in case of groundless threats of legal proceedings.

Provided that this Section shall not apply if an action for infringement of the patent is commenced and prosecuted with due diligence.

MISCELLANEOUS.

39. Where, after the commencement of this Regulation, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent, and if any such person dies, his beneficial interest in the patent shall devolve on his legal representatives.

Grant of patents to two or more persons.

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40. (1) An invention shall be deemed a new invention within the meaning of this Regulation—

Novelty of invention.

(a) if it has not, before the date of the application for a patent thereon, been publicly used in any part of Cochin; or been made publicly known in any part of Cochin, and

(b) if the inventor has not by secret or experimental uses made direct or indirect profits from his invention in excess of such an amount as the Court or the Government, as the case may be, may, in consideration of all the circumstances of the case deem reasonable.

(2) The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of this Regulation if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or has been communicated to the public in fraud of such inventor or in breach of confidence.

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for a patent.

41. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on payment of the prescribed fee, seal a duplicate thereof.

Loss or destruction of patent.

42. (1) The exhibition of an invention at an industrial or international exhibition certified as such by the Government, or the publication of any description of the invention during the period of the holding of the exhibition or the use of the invention for the purpose of the exhibition, in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application.

Provisions as to exhibitions.

Provided that—

(a) the exhibitor, before exhibiting the invention, gives the Controller the prescribed notice of his intention to do so; and

(b) the application for a patent is made before or within six months from the date of the opening of the exhibition.

(2) The Government may, by notification in the Cochin Government Gazette, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Government, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

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43. The Curator of the Cochin State Museum may, at any time require a patentee to furnish him with a model or sample of his invention on payment to the patentee of the cost of the manufacture of the model or sample, the amount to be settled, in case of dispute, by the Government.

Models to be furnished to Cochin Museum.

44. (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any Court in Cochin, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from Cochin.

Foreign vessels in Cochin waters.

(2) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in Cochin vessels while in the ports of that State, or in the waters within the jurisdiction of its Courts.

PART II.

DESIGNS.

Registration of Designs.

45. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in Cochin, register the design under this part.

Application for registration of designs.

(2) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner and must be accompanied by the prescribed fee.

(3) The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.

(4) The Controller may, if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal to the Government.

(5) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(6) A design when registered shall be registered as of the date of the application for registration.

46. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in some one or more classes, shall not be refused, nor shall the registration thereof be invalidated—

Registration of designs in new classes.

(a) on the ground of the design not being a new or original design, by reason only that it was so previously registered; or

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(b) on the ground of the design having been previously published in Cochin, by reason only that it has been applied to goods of any class in which it was so previously registered.

Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration.

Certificate of Registration.

47. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered.

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

Register of Designs.

48. (1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed.

(2) The register of designs existing at the commencement of this Regulation shall be incorporated with, and form part of, the register of designs under this Regulation.

(3) The register of designs shall be *prima facie* evidence of any matters by this Regulation directed or authorised to be entered therein.

Copyright in Registered Designs.

Copyright on Registration.

49. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Regulation, have copyright in the design during five years from the date of registration.

(2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Regulation, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

Requirements before delivery on sale.

50. (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

(a) (if exact representations or specimens were not furnished on the application for registration), furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease; and

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(b) cause each such article to be marked with the prescribed mark or with the prescribed words or figures, denoting that the design is registered; and if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Government by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Government may if they think fit, by rule under this Regulation, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as they think fit.

Effect of disclosure on copyright.

51. The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Inspection of registered designs.

52. (1) During the existence of copyright in a design or such shorter period not being less than two years from the registration of the design as may be prescribed the design shall not be open to inspection except by the proprietor or a person authorised in writing by him, or a person authorised by the Controller or by the Court, and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him, and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof.

Provided that, where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(2) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

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Information as to existence of copyright.

53. On the request of any person furnishing such information as may enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Cancellation of Registration.

54. (1) Any person interested may present a petition for the cancellation of the registration of a design.—

(a) at any time after the registration of the design, to the Chief Court on any of the following grounds, namely:—

(i) that the design has been previously registered in Cochin; or

(ii) that it has been published in Cochin prior to the date of registration; or

(iii) that the design is not a new or original design; or

(b) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (i) and (ii) of clause (a).

(2) An appeal shall lie from any order of the Controller under this section to the Chief Court, and the Controller may at any time refer any such petition to the Chief Court and the Chief Court shall decide any petitions so referred.

Registration of designs to bind His Highness the Maharaja.

55. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs.

Industrial and International Exhibitions.

Provisions as to exhibitions.

56. The Exhibition at an industrial or international exhibition certified as such by the Government, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof:

Provided that—

(a) the exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the Controller the prescribed notice of his intention to do so; and

(b) the application for registration is made before or within six months from the date of the opening of the exhibition.

(2) The Government may, by notification in the Cochin Government Gazette, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition

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certified as such by the Government, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

Legal proceedings.

Piracy of registered design.

57. (1) During the existence of copyright in any design it shall not be lawful for any person—

(a) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or

(b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

(a) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt; or

(b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable in respect of one design under clause (a) shall not exceed one thousand rupees.

(3) When the Court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.

Application of certain provisions of the Regulation as to patents and designs.

58. The provisions of this Regulation with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

PART III.

GENERAL.

PATENT OFFICE AND PROCEEDINGS THEREAT.

Patent Office.

59. (1) The Government may provide, for the purposes of this Regulation, an office which shall be called, and is in this Regulation referred to as, the Patent Office.

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(2) The Patent Office shall be under the immediate control of the Controller of Patents and Designs, who shall act under the superintendence and direction of the Government.

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorized by the Government.

Officers and clerks.

60. The Government may appoint the Controller, and so many officers and clerks, with such designations and duties, as they think fit.

FEES.

Fees.

61. (1) There shall be paid in respect of the grant of patents and the registration of designs, and applications therefor, and in respect of other matters with relation to the patents and designs under this Regulation, such fees as may be prescribed by the Government, so however that the fees prescribed in respect of the instruments and matters mentioned in the schedule shall not exceed those there specified.

(2) A proceeding in respect of which a fee is payable under this Regulation or the rules made thereunder shall be of no effect unless the fee has been paid.

PROVISIONS AS TO REGISTERS AND OTHER DOCUMENTS IN THE PATENT OFFICE.

Notice of trust not to be entered in registers.

62. There shall not be entered in any register kept under this Regulation, or be receivable by the Controller, any notice of any trust, expressed, implied or constructive.

Inspection of, and extracts from, registers.

63. Every register kept under this Regulation shall at all convenient times be opened to the inspection of the public, subject to the provisions of this Regulation; and certified copies sealed with the seal of the Patent Office of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Privilege of reports of Controller.

64. Reports of or to the Controller made under this Regulation shall not in any case be published or be open to public inspection.

Prohibition of publication of specification, drawings, etc., where application abandoned, etc.

65. (1) Where an application for a patent has been abandoned or become void, the specifications with drawings (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Regulation, at any time, be open to public inspection or be published by the Controller.

(2) Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.

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66. The Controller may, on request in writing accompanied by the prescribed fee—

Power for Controller to correct clerical errors.

(a) Correct any clerical error in or in connection with an application for a patent or in any patent or any specification;

(b) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register of designs.

67. (1) Where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

Entry of assignments and transmissions in registers.

(2) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his tile, and the controller shall, on receipt of such application and on proof of title, to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Regulation and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design, and to give effectual receipts for any consideration for any such assignment, license or dealing:

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other movable property.

(4) Except in the case of an application made under section 68, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any Court in proof of the title to a patent or to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs.

68. (1) The Controller may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging or varying such entry as he thinks fit and rectify the register accordingly.

Rectification of register by Court.

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(2) The Controller may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(3) An appeal shall lie to the Chief Court from any order of the Controller under this section, and the Controller may refer any application under this section to the Chief Court for decision, and the Chief Court shall dispose of any application so referred.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly.

(5) Nothing in this section shall be deemed to empower the Controller—

(a) to rectify the register of patents or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Regulation, or

(b) to make any such order cancelling the registration of a design as is provided for in section 54.

POWERS AND DUTIES OF CONTROLLER

Powers of Controller in proceedings under Regulation.

69. Subject to any rules in this behalf, the Controller in any proceedings before him under this Regulation shall have the powers of a Civil Court for the purpose of receiving evidence and administering oaths and enforcing the attendance of witnesses and compelling the production of documents and awarding costs.

Publication of patented inventions.

70. The Controller shall issue periodically a publication of patented inventions containing such information as the Government may direct.

Exercise of discretionary power by Controller.

71. Where any discretionary power is by, or under, this Regulation, given to the Controller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application, or of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

Power of Controller to take directions of Government.

72. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Regulation, apply to the Government for directions in the matter.

Refusal to grant patent, etc., in certain cases.

73. (1) The Controller may refuse to grant a patent for an invention or to register a design, of which the use would, in his opinion, be contrary to law or morality.

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(2) An appeal shall lie to the Government from an order of the Controller under this section.

Appeals to the Government.

74. (1) Where an appeal is declared by this Regulation to lie from the Controller to the Government, the appeal shall be made within three months of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.

(2) In calculating the said period of three months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The Government may, if they think fit, obtain the assistance of an expert in deciding such appeals, and the decision of the Government shall be final.

EVIDENCE, ETC.

Certificate of Controller to be evidence.

75. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Regulation, or any rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Transmission of certified printed copies of specifications, etc.

76. Copies of all specifications, drawings and amendments left at the Patent Office after the commencement of this Regulation, printed for and sealed with the seal of the Patent Office, shall be transmitted as soon as may be, after they have been accepted or allowed at the Patent Office, to the Government and such other authorities as the Government may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times, at places to be appointed by those authorities.

Applications and notices by post or anchal.

77. Any application, notice or other document authorised or required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Regulation, may be sent by post or anchal.

Declaration by infant, lunatic, etc.

78. (1) If any person is, by reason of infancy, lunacy, or other disability, incapable of making any statement or doing anything required or permitted by or under this Regulation, the lawful guardian, committee or manager (if any) of the person subject to the disability or, if there be none, any person appointed by any Court possessing jurisdiction in respect of his property, may make such statement, or a statement as nearly corresponding thereto as circumstances permit and do such thing in the name and on behalf of the person subject to the disability.

(2) Any appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person, subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

Security for costs,

79. Where a person giving notice of any opposition under this Regulation or giving notice to the Court of appeal from any decision of the Controller under this Regulation, neither resides nor carries on business in

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Cochin, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be and, in default of such security being given, may disallow the opposition or dismiss the appeal.

AGENCY.

Subscription and verification of certain documents.

80. The following documents, namely,—

(1) applications for a patent,

(2) notices of opposition,

(3) applications for extension of term of patent,

(4) applications for the restoration of lapsed patents,

(5) applications for leave to amend,

(6) applications for compulsory license or revocation, and

(7) notices of surrenders of patent,

shall be signed and verified, in the manner prescribed, by the person making such applications or giving such notices:

Provided that, if such person is absent from Cochin, they may be signed and verified on his behalf by an agent resident in Cochin authorized by him in writing in that behalf.

Agency.

81. (1) All other applications and communications to the Controller under this Regulation may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner, or by or through an agent authorised to the satisfaction of the Controller.

(2) The Controller may, if he sees fit, require—

(a) any such agent to be resident in Cochin;

(b) any person not residing in Cochin to employ an agent residing in Cochin;

(c) the personal signature or presence of any applicant, opponent or other person.

POWERS, ETC., OF THE GOVERNMENT.

Power of the Government to make rules.

82. (1) The Government may make such rules, as they think expedient, subject to the provisions of this Regulation—

(a) for regulating the practice of registration under this Regulation;

(b) for classifying goods for the purposes of designs;

(c) for making or requiring duplicates of specifications, drawings and other documents;

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(d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the Government think fit, of specifications, drawings and other documents;

(e) for securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications, and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents;

(f) for the manner in which fees leviable under this Regulation may be paid;

(g) for ensuring secrecy with respect to patents to which section 22 applies;

(h) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Regulation placed under the direction or control of the Controller or of the Government; and

(i) generally for the purpose of carrying into effect the provisions of this Regulation.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(3) Nothing in sub-section (2) shall apply in the case of rules made for the purpose specified in clause (g) of sub-section (1); and any such rules may modify any of the provisions of this Regulation so far as may be necessary for that purpose.

(4) All rules made under this section shall be published in the Cochin Government Gazette, and on such publication, shall have effect as if enacted in this Regulation.

OFFENCES.

Wrongful use of words "Patent Office".

83. If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office", or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor.

RECIPROCITY.

Reciprocal arrangements with British India and Other States.

Reciprocal arrangements with British India and Other States.

84. (1) If the Government make any arrangement with the United Kingdom or with the Government of British India or any other State for mutual protection of inventions or designs and declare, by a notification in the Cochin Government Gazette, the provisions of this section to be applicable in such cases, then any person who has applied for protection for any invention or design in the United Kingdom, British

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India or the other State or his legal representative or assignee shall be entitled to a patent for his invention or to registration of his design under this Regulation, in priority to other applicants; and the patent or registration shall have the same date as the date of the application in the United Kingdom, British India or the other State:

Provided that—

(a) The application is made in the case of a patent within twelve months, and, in the case of a design, within six months from the application for protection in the United Kingdom, British India or the other State; and

(b) Nothing in this section shall entitle the patentee or the proprietor of the design to recover damages for infringements happening prior to the actual date on which, in the case of a patent, his application is accepted, or, in the case of a design, the design is registered, in Cochin.

(2) The patent granted for an invention or the registration of a design shall not be invalidated—

(a) in the case of a patent, by reason only of the publication of a description of, or use of, the invention, or

(b) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of the design, in Cochin during the period specified in this section as that within which the application may be made.

(3) The application for the grant of a patent or the registration of a design under this section must be made in the same manner as an ordinary application under this Regulation.

Provided that in the case of a patent, if the application is not accepted within twelve months from the date of the application for protection in the United Kingdom, British India or the other State, the specification and the drawings (if any) supplied therewith shall be open to public inspection at the expiration of that period.

(4) Where it is made to appear to the Government that the legislature of any other part of the United Kingdom, or of British India or of any other State has made satisfactory provision for the protection of inventions or designs, patented or registered in Cochin, the Government may, by notification in the Cochin Government Gazette, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of inventions or designs patented or registered in that part of the United Kingdom, British India or any other State, as the case may be.

SAVINGS AND REPEAL.

Saving for prerogative.

85. Nothing in this Regulation shall take away, abridge or prejudicially affect the prerogative of His Highness the Maharaja in relation to the granting of any letters patent or to the withholding of a grant thereof.

Repeal.

86. On the commencement of this Regulation, the Cochin Patents and Designs Regulation, XII of 1095, shall stand repealed.

Clauses put and carried.

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Mr. President.—The question is that the schedule to the Bill stand part of the Bill.

The Schedule.

(See section 61).

Fees.

	Rs.
On application for a patent	10
Before sealing a patent	30
Before the expiration of the 4th year from the date of the patent	50
Before the expiration of the 5th year from the date of the patent	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	100
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100
Before the expiration of the 11th year from the date of the patent	100
Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that the fees for two or more years may be paid in advance	
On application to extend the term of a patent	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 14	150
On application for registration of a design.	3

Schedule put and carried.

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Mr. President.—The question is that clause 1 stand part of the Bill.

PRELIMINARY.

1. (1) This Regulation may be called the Cochin Patents and Designs Regulation .....

Short title, extent and commencement.

(2) It extends to the whole of Cochin; and

(3) It shall come into force on.....

Clause put and carried.

Mr. President.—The question is that the title and preamble stand part of the Bill:

The Cochin Patents and Designs Bill.

Whereas it is expedient to amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

Preamble.

Title and preamble put and carried.

Mr. Thomas Manjuran.—I rise to move that the Cochin Patents and Designs Bill may be taken up and passed day after tomorrow.

Motion put and carried.

The House rose for lunch at 12-50 p. m. and re-assembled at 2-15 p. m. with the Panel Chairman (M. R. Ry., P. C. Varkey Avl.) in the Chair.

Resolutions (contd.)

22. Exemption of line boats from payment of landing dues to the Municipalities.

Mr. George Parakkal.—"*This Council recommends to the Government that the line boats licensed in the State be exempted from payment of landing dues to the Municipalities and other private agencies for landing or mooring at jetties prescribed by Government.*"

By this resolution, I bring to the notice of the House the very hard lot to which the boat owners are put to. Now, they give license fees twice a year and inspection fees also. As a matter of fact, the line boat owners are not making any profit from running the boats. There are jetties at Ernakulam and

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